



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'07 MJ 8884

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|-----------------------------------|---|
| UNITED STATES OF AMERICA, | } Magistrate Case No.: |
| Plaintiff, | |
| v. | |
| Kevin Emmanuel ALVARADO-Martinez, | |
| Defendant. | } COMPLAINT FOR VIOLATION OF Title 8, U.S.C. ' 1324(a)(1)(A)(ii) Illegal Transportation of Aliens (Felony) |

The undersigned complainant being duly sworn states:

On or about October 25, 2007, within the Southern District of California, defendant Kevin Emmanuel ALVARADO-Martinez, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, Eduardo CASTRO-Avila, Alfonso GARCIA-Aguilera and Francisco JIMENEZ-Garcia, had come to, entered and remained in the United States in violation of law, did transport and move, and attempt to transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

And the complainant states that this complaint is based on the attached Statement of Facts, which is incorporated herein by reference.


Michael Mikuski
Senior Border Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 29TH DAY
OF OCTOBER 2007.


PETER C. LEWIS
U. S. Magistrate Judge

I, Senior Border Patrol Agent Michael Mikuski declare under penalty of Perjury, the following is true and correct:

PROBABLE CAUSE STATEMENT

The complainant states that this complaint is based upon statements in the investigative reports by the apprehending officers, Border Patrol Agents S. Templin and J. Esparza that on October 25, 2007, the defendant, Kevin Emmanuel ALVARADO-Martinez, a United States Citizen was apprehended near Calexico, California, as the driver of a black 1995 Chevrolet Lumina bearing California license, 4SLR432, as he smuggled (4) four undocumented aliens from Mexico into the United States in violation of law.

At approximately 4:40 p.m. the Calexico Stations Remote Video Surveillance System operator (RVSS) observed four individuals climb over the International Boundary fence with Mexico and board a black colored Lumina east of Calexico, California. The RVSS operator maintained a visual on the Lumina as it drove north from the area and reported his observations to nearby agents. Agents G. Larios and S. Guzman were able to clearly see the driver of the Lumina, later identified as Kevin Emmanuel ALVARADO-Martinez, as it passed their locations.

An attempt to deploy a Controlled Tire Deflation Device (CTDD) on the Lumina was made, however, ALVARADO swerved into oncoming traffic and onto the shoulder of the road in order to avoid the CTDD. ALVARADO lost control of the Lumina and it rolled two times before stopping. ALVARADO and two individuals inside attempted to abscond into the nearby field. Agents pursued ALVARADO and the others through the field. The agents identified themselves and ordered the individuals to stop in both the English and Spanish languages, the individuals failed to comply. The agents were able to catch ALVARADO and the other individuals and questioned them. It was determined that ALVARADO is a United States Citizen and the other two individuals are natives and citizens of Mexico. The two individuals that stayed in the Lumina were questioned and determined to be natives and citizens of Mexico illegally in the United States. ALVARADO and the others were arrested.

At the Station Agent M. Battaglini witnessed Agent F. Robles read ALVARADO his rights per Miranda. ALVARADO stated he understands his rights and is willing to answer questions without an attorney present. ALVARADO stated after picking up the Lumina, he called him via cellular phone and gave him instructions on where to go and when to stop to pick up the illegal aliens. ALVARADO stated when he observed Border Patrol following him he began driving faster. ALVARADO stated he knew he was traveling fast but was not sure how fast. ALVARADO stated he swerved to avoid driving over the CTDD when he lost control and crashed. ALVARADO stated he was going to get paid \$100 per alien he smuggled.

Material witnesses' Francisco JIMENEZ-Garcia, Alfonso GARCIA-Aguilera and Eduardo CASTRO-Avila stated arrangements were made with an unknown smuggler to pay an undetermined fee to be smuggled into the United States. Once in the United States JIMENEZ, GARCIA and CASTRO stated they boarded a vehicle that was waiting for them. They stated once the driver saw Border Patrol he began to drive faster and erratically. JIMENEZ, GARCIA and CASTRO all stated they were scared when the vehicle lost control and it was determined three of the smuggled aliens were not wearing seat belts at the time of the crash.

The complainant states that the names of the Material Witnesses are as follows:

| NAME | PLACE OF BIRTH |
|--------------------------|----------------|
| Eduardo CASTRO-Avila | Mexico |
| Alfonso GARCIA-Aguilera | Mexico |
| Francisco JIMENEZ-Garcia | Mexico |

Further, complainant states that Eduardo CASTRO-Avila, Alfonso GARCIA-Aguilera, and Francisco JIMENEZ-Garcia are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

Executed on October 27, 2007 at 8:00 A.M.


Michael Mikuski
Senior Border Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 2 pages, I find Probable Cause to believe that the defendant named in this Probable Cause Statement committed the offense on October 25, 2007 in violation of Title 8, United States Code, 1324 and Title 18 USC.


Louisa S. Porter
United States Magistrate Judge

10/27/07 11:45 AM
Date and Time

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